IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO. 1279 OF 2005

Michelle M. Desai ... Petitioner

V/s

1 Shirin R. Majai & Anr. ... Respondents

Mr. P.M. Havnur for petitioner

Coram : V.M. Kanade, J.

Dated : 05/05/2005.

P.C. :-

1 The parties have filed the consent terms which are taken on record and marked "X" for identification. The petitioner/original complainant lodged a complaint on 1/6/1996 being FIR No.271 of 1996 for an offence punishable under sections 324,341, 342, 506 (Part 2)and 114 of the Indian Penal Code against the respondent No.1.The respondent No.1 is paternal aunt of the petitioner. After filing the said complaint the charge was framed under sections 324 and sections 506(part 2) of the Indian Penal Code.The two suits filed on the Original Side, High

Court

were ultimately settled out of the court by filing the consent terms. Thereafter, an application was preferred before the Metropolitan Magistrate for compounding the offence. However, the Magistrate refused to grant the permission to compound the offence under sections 324 and 34 of the Indian Penal Code, since the case under section 506 (part 2) is not compoundable as per section 320 of Criminal Procedure Code.

3 The petitioner has, therefore, approached this court under section 482 of Criminal Procedure Code for quashing the criminal complaint No.551/P/1996 pending before the Additional Chief Magistrate,9th Court, Bandra, Mumbai.

4 It is well settled law that inherent power of this court under section 482 of the Code of Criminal Procedure is not curtailed or limited by virtue of provisions of section 320 of the Code. The Supreme Court in the case of **B.S. Joshi v. State of Haryana** reported in **JT 2003(3) SC 277 =2003 CRI.L.J.2028.** Paragraph-15 of the judgment reads as under:

"In view of the above discussion, we hold that the High Court in exercise of its inherent powers can quash criminal proceedings or FIR or complaint and section 320 of the Code does not limit or affect the powers under section

482 of the Code”.

5 Since the parties have settled the matter amicably and they do not want to proceed with the criminal litigation, in my view, this is a fit case for quashing the criminal complaint. In view of this, the criminal writ petition is allowed. Criminal case No. 551/P/1996 pending before Additional Chief Metropolitan Magistrate, 9th Court, Bandra,Mumbai is quashed. FIR lodged by the petitioner on 1/6/1996 being FIR No.271/1996 is also quashed and set aside.

(V.M. Kanade,J.)